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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,461	08/15/2003	Tsuyoshi Toda	16869N-089700US	2149
20350	7590	02/05/2007	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP. TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			CHU, KIM KWOK	
			ART UNIT	PAPER NUMBER
			2627	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/642,461	TODA ET AL.	
Examiner	Art Unit		
Kim-Kwok CHU	2627		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on Amendment filed on 11/6/2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-7 is/are pending in the application.  
    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1-4 is/are allowed.

6)  Claim(s) 5-7 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 8/15/2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_.

***Response to Remarks***

1. Applicant's Amendment filed on November 6, 2006 has been fully considered. The amended Claim 1 is allowable over prior art. However, Claims 5-7 are rejected under 35 U.S.C. 101 because Claims 5-7 merely claims data recorded in a recording medium.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

*Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.*

Claims 5-7 are directed to non-statutory subject matter.

In Claims 5-7, the recording medium stores functional descriptive materials. Since Applicant does not claim the recording medium is a computer-readable medium, the stored contents are therefore non-statutory subject matter.

**Allowable Subject Matter**

3. Claims 1-4 are allowable over prior art.

4. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

As in claim 1, the prior art of record fails to teach or fairly suggest an information recording apparatus having the following features:

(b) a calculating circuit configured to calculate on the digital signal such that a recording condition of the oscillated laser light is adapted;

(b) the recording condition is previously recorded on the recording medium, the recording condition including a linear recording velocity of the oscillated laser light, a recording power of the oscillated laser light, amplitude information of the reproduced signal, an asymmetry of the recording power, a change ratio of the amplitude information to the recording power of the oscillated laser light, and a change ratio of the amplitude information to the linear recording velocity, and wherein the recording power for information recording and reproducing is adapted by using the recording condition recorded on the recording medium as amplitude information of

the reproduced signal and the change ratio of the amplitude information to the recording power.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

5. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington, can be reached on (571) 272-4483.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

Kim-Kwok CHU  
Examiner AU2627  
January 29, 2007  
(571) 272-7585  
*jk* 1/29/2007

*Andrea Wellington*  
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SUPERVISORY PATENT EXAMINER